



GALVESTON COUNTY, TEXAS

COMMISSIONERS COURT 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry
County Judge

Ryan Dennard
Commissioner, Precinct 1

Joe Giusti
Commissioner, Precinct 2

Stephen Holmes
Commissioner, Precinct 3

Ken Clark
Commissioner, Precinct 4

CALDER ANNEX LOCATION
174 Calder Rd., Ste.142
League City, Texas 77573

SPECIAL MEETING-AGENDA **November 2, 2016 – 3:00 PM**

CONSENT AGENDA: ALL ITEMS MARKED WITH A SINGLE ASTERISK (*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

Call to Order

Consent Agenda

- *1. Consideration of *authorization to execute contract with Hutchinson Shockey Erley & Co. for Financial Advisory Services* submitted by Professional Services

Action Agenda

- 2. Commissioner, Precinct 2
 - a. Consideration of approval of requested waiver to policy HR010-Law Enforcement Career Path Program for Constable, Precinct 2-Deputy IV position
- 3. County Engineer
 - a. Consideration of approving First Amendment to agreement by and between Galveston County and Apollo Environmental Strategies, Inc. (to utilize applicable prevailing wage rate information) and authorizing the County Judge to execute same
- 4. Emergency Management
 - a. Consideration of adopting Order prohibiting outdoor burning in all unincorporated areas of Galveston County, Texas (Outdoor Burn Ban) and authorizing the County Judge to execute same

5. County Legal

- a. **Break into Executive Session:**
- b. **Executive Session:** Texas Government Code Section 551.071, Consultation with Attorney. The Commissioners Court will enter into an executive session as permitted under the Texas Open Meetings Act pursuant to Section 551.071 of the Government Code: to seek the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the County under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Open Meetings Act relating to Federal and State requirements associated with grant No. F13AF00087 with the U.S. Department of Interior –Fish and Wildlife Service, through the Coastal Impact Assistance Program (which is the dune restoration and beach nourishment project on Bolivar Peninsula).
- c. **Executive Session:** Texas Government Code Section 551.074, Personnel Matters: the Commissioners Court will enter into executive session as permitted under the Open Meetings Act, Chapter 551 of the Texas Government Code, pursuant to Section 551.074 of the Texas Government Code, Personnel Matters: to deliberate the appointment, employment, evaluation, reassignment, or duties of a public employee, the Chief Information Officer.
- d. **Reconvene into Special Meeting**

Adjourn

Appearances before Commissioners Court

A speaker whose subject matter as submitted relates to an identifiable item of business on this agenda will be requested by the County Judge or other presiding court members to come to the podium where they will be limited to three minutes (3). A speaker whose subject matter as submitted does not relate to an identifiable item of business on this agenda will be limited to three minutes (3) and will be allowed to speak before the meeting is adjourned. Please arrive prior to the meeting and sign in with the County Clerk.

Executive Sessions

The Galveston County Commissioners Court may recess into closed meeting (Executive Session) on any item listed on this agenda if the Executive Session is authorized under the Open Meetings Act pursuant to one or more the following exceptions: Tex. Gov't Code §§ 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding a prospective gift or donation), 551.074 (personnel matters), 551.0745 (personnel matters affecting County advisory body), 551.076 (deliberation regarding security devices or security audits), and/or 551.087 (deliberations regarding economic development negotiations). The Presiding Officer of the Commissioners Court shall announce the basis for the Executive Session prior to recessing into Executive Session. However, the Commissioners Court may only enter into the Executive Session on any agenda item for which a separate Executive Session has not been separately posted if, prior to conducting the Executive Session, a majority of the Commissioners Court votes to go into Executive Session. This motion requirement does not apply to any agenda item that has been previously noticed to constitute or include an Executive Session.




AGENDA ITEM #1.



**GALVESTON COUNTY, TEXAS
COMMISSIONERS COURT
Contract Approval Request**

To Be Completed By Department							
1. Date of Request: <u>10/27/16</u>		2. Contract Type: <u>Expense</u> Revenue Other			3. Renewal Contract: Yes <u>No</u>		
4. Department Name: <u>Professional Services</u>				5. Department Contact: <u>David m Delac</u>			
6. Description: <u>Financial Advisory Service</u>							
7. IFAS PEID No:		8. IFAS Req No:		9. Orgkey:		10. Object Code:	
11. Vendor: <u>Hutchinson Shockey Erley & Co.</u>				12. Vendor Contract No:			
13. Requested Legal Review: Yes <u>No</u> (Explain if No)							
Expenditure Budget / Revenue Projections							
14. Fund Name	15. Fund #	16. Current Year Budgeted	17. Current Year Projected	18. Year 2 Projected	19. Year 3 Projected	20. Year 4 Projected	21. Year 5 Projected
<u>N/A</u>	<u>Expense paid with Debt Service Fund only if Debt is issued</u>						
22. Totals:							
To Be Completed By Purchasing Department							
Contract Start Date: <u>11/8/16</u>		Auto Renewal Contract: Yes <u>No</u>		Bid No: <u>N/A</u>			
Contract End Date: <u>11/7/19</u>		Contract # Issued By Purchasing: <u>CM17038</u>		Form 1295 Certificate #:			

① No HB1295 (sent off)
② 3 yr contract

Approved By:	Signature	Date
Department Head:		<u>10/27/16</u>
Purchasing Agent:		<u>10-27-16</u>
County Legal:		<u>10/27/2016</u>

Contract Listed in Budget Documentation: YES NO

County Budget Office:

Budget Available and Funds are/will be Available YES NO

County Auditor:

HutchinsonShockeyErley&Co

James Niederle
Senior Vice President
4545 Post Oak Place, Suite 215
Houston, Texas 77027
P - 713.429.5898 / F - 713.621.4022



November 1, 2016

The Honorable Mark Henry
County Judge
Galveston County, Texas
722 Moody Avenue, 2nd Floor
Galveston, Texas 77550

Re: MUNICIPAL ADVISORY SERVICES

Dear Judge Henry:

This letter, including Appendix A (this "Agreement"), confirms and memorializes the agreement ("Agreement") between **Galveston County, Texas** (referred to herein as the "Client") and Hutchinson, Shockey, Erley & Co., an Illinois corporation ("HSE") and a member of the Financial Industry Regulatory Authority ("FINRA"), pursuant to which HSE agrees to provide Municipal Advisory Services (as defined herein) to the Client in accordance with the terms and conditions set forth herein. In consideration of good and valuable services provided and the mutual promises, representations, warranties and covenants of the parties contained herein, the parties agree as follows:

For purposes of this Agreement, "Municipal Advisory Services" provided by HSE is defined as the following.:

- (i) identifying and presenting to the Client various financing information;
- (ii) advising the Client on financing strategies;
- (iii) assisting in the development of the necessary cost information for the various projects;
- (iv) assisting the Client with negotiations with other government entities; and
- (v) assisting the Client with cash flow and cash management activities, if requested.

The services that HSE will provide to the Client pursuant to this Agreement are limited solely to the Municipal Advisory Services listed above. HSE is not responsible for preparing any preliminary or final official statement, or for certifying as to the accuracy or completeness of any preliminary or final official statement, other than with respect to any information about HSE provided by HSE for inclusion in those documents. HSE will not provide tax, legal, accounting or engineering advice with respect to any financing or in connection with any opinion or certificate rendered by counsel or any other person at closing, and HSE will not review or advise on any feasibility study.

1. Term; Termination: The initial term of this agreement begins on the date hereof and ends three years from the date hereof (the "Initial Term"). The Agreement may be terminated by the Client or HSE upon 30 days written notice.

2. Municipal Advisory Services; Compensation: The Client hereby engages HSE to perform the Municipal Advisory Services. As compensation for the Municipal Advisory Services to be provided by HSE during the Initial Term, the Client shall pay HSE the amount as follows:

If the Amount of Bonds Delivered is:		The Fee Is:
MORE THAN	LESS THAN	
\$0	\$1,000,000	\$10,000 Minimum
\$1,000,000	\$5,000,000	\$10,000 plus \$2.50 per \$1,000 for all over \$1,000,000
OVER	\$5,000,000	\$20,000 plus \$1.00 per \$1,000 for all over \$5,000,000

3. Expenses: The Client agrees to reimburse HSE for all of its reasonable and necessary out-of-pocket expenses incurred which are related to the Municipal Advisory Services. Invoices for out-of-pocket expenses shall be supported by appropriate documentation. The Client shall promptly reimburse expenses to HSE upon presentation of invoices to the Client.

4. Consultation with HSE Representatives: HSE will make available, for consultation with officials, counsel and staff members of the Client, at times and places mutually agreed upon, personnel qualified to advise the Client on those items identified in (i) through (v) as described beforehand. James Niederle will be assigned as the primary professional on the Client account with Olyvia Jarmoszka advising on financial structuring and technical matters.

5. Reasonable Cooperation: As needed by HSE in the performance of duties for the Client under this Agreement, the Client will make available the appropriate personnel for conferences and information meetings. The Client also agrees to cooperate, and to cause its agents to cooperate, with HSE in carrying out its regulatory duties, including providing HSE accurate and complete information and reasonable access to relevant documents, other information and personnel needed to fulfill such regulatory duties. In addition, the Client agrees that, to the extent the Client seeks to have HSE provide advice with regard to any recommendation made by a third party, the Client will provide to HSE written direction to do so as well as any information the Client has received from such third party relating to its recommendation.

6. Liability for Fees and Expenses: Termination of this Agreement or transfer, assignment or sale of rights by the Client in relation to the project shall not release the Client from responsibility with respect to the fees and expenses payable pursuant to this Agreement.

7. Other Services: The Client has not engaged HSE as, and HSE has not agreed to act as, an underwriter or placement agent with respect to the issuer of municipal debt by the City. Under the Municipal Securities Rulemaking Board Rule G-23, as amended, HSE is precluded from acting as an underwriter or placement agent on the issuance of municipal debt by the City or changing to such a role once named as municipal advisor to the Client on the issuance of municipal debt by the City.

8. Disclosures: The Client has carefully reviewed and understands HSE's municipal advisor disclosures attached hereto as Appendix A.

9. Limitation of Liability: In the absence of willful misconduct, bad faith, gross negligence or reckless disregard of obligations or duties hereunder on the part of HSE or any of its associated persons, HSE and its associated persons will have no liability to the Client for any act or omission in the course of, or in connection with, rendering services hereunder, or for any error or judgment or mistake of law, or for any loss arising out of any issuance of municipal securities, any municipal financial product or any other investment, or for any financial or other damages resulting from the Client's election to act or not to act, as the case may be, contrary to any advice or recommendation provided by HSE to the Client. No recourse may be had against HSE for loss, damage, liability, cost or expense (whether direct, indirect or consequential) of the Client arising out of or in defending, prosecuting, negotiating or responding to any inquiry, questionnaire, audit, suit, action or other proceeding brought or received from the Internal Revenue Service in connection with the Issue or otherwise relating to the tax treatment of the Issue, or in connection with any opinion or certificate rendered by counsel or any other party. Notwithstanding the foregoing, nothing contained in this paragraph 9 or elsewhere in this Agreement constitutes a waiver by the Client of any of its legal rights under applicable U.S. federal securities laws or any other laws whose applicability is not permitted to be contractually waived, nor does it constitute a waiver or diminution of HSE's fiduciary duty to the Client under Section 15B(c)(1) of the Securities Exchange Act of 1934, as amended, and the rules thereunder. This paragraph 9 shall survive the termination of this Agreement.

10. Notices: All notices provided for by this Agreement shall be made in writing either: (i) by actual delivery of the notice into the hands of the parties thereto entitled, or by delivery via courier service to a person in the office of the person entitled to notice; or (ii) by the mailing of the notice in the United States mails to the address, as stated below (or at such other address as may be designated by written notice), of the party entitled thereto, by certified or registered mail, return receipt requested, postage prepaid. The notice shall be deemed to be received three (3) days after the date of deposit in the United States mails.

All communications hereunder, except as herein otherwise specifically provided, shall be in writing and, if sent to HSE, shall be mailed or delivered to HSE at its address first set forth above; if sent to the Client, it shall be mailed or delivered to the Client's principal address.

11. Construction: This Agreement shall be governed by, subject to and construed in accordance with the laws of Texas, without regard to its conflicts of law principles, and any dispute with respect to the subject matter hereof shall be litigated in the state or federal courts closest to HSE's local office, to which jurisdiction and venue all parties consent.

12. Severability: If any portion of this Agreement is to be held invalid or unenforceable by a court of competent jurisdiction, then: (i) the remainder of this Agreement shall be considered valid and operative; and (ii) effect shall be given to the intent manifested by the portion held invalid or inoperative.

13. Modification or Amendment: This Agreement may not be modified or amended except by written agreement executed by all parties hereto; provided that (i) HSE may amend this Agreement without the consent of the Client to effect any changes required by applicable laws or regulations or to supplement or make any amendment to Appendix A and (ii) HSE and the Client agree promptly to amend or supplement the scope of the Municipal Advisory Services to be provided by HSE pursuant to this Agreement to reflect any material changes or additions.

14. Authority. The undersigned represents and warrants that he or she has full legal authority to execute this Agreement on behalf of the Client.

15. Captions: The captions used in this Agreement are for convenience only and shall not be considered as part of this Agreement.

[signature page follows]

If this letter correctly sets forth the entire understanding between HSE and the Client with respect to the foregoing, please so indicate by signing below, at which time this letter shall become a binding contract.

Sincerely,

HUTCHINSON, SHOCKEY, ERLEY & CO.

By: James Nudette
Its: Senior Vice President

By: Douglas P. DeAngelis
Its: Public Finance Manager

ACCEPTED:

Galveston County, Texas

By: _____

Its: _____

Date: _____

APPENDIX A

MUNICIPAL ADVISOR DISCLOSURE

Pursuant to Municipal Securities Rulemaking Board Rule G-42, this Municipal Advisor Disclosure (this “MA Disclosure”) describes material conflicts of interest and any legal or disciplinary event that may be material to your evaluation of Hutchinson, Shockey, Erley & Co. (“HSE”) or the integrity of HSE’s management or advisory personnel.

As required by Rule G-42, this MA Disclosure may be supplemented or amended from time to time as needed to reflect changed circumstances resulting in new conflicts of interest or changes in the conflicts of interest described in this MA Disclosure, or to provide updated information with regard to any legal or disciplinary events of HSE. HSE will provide you with any supplement or amendment as it becomes available throughout the term of this engagement.

Conflicts of Interest

As general mitigations of HSE’s conflicts, HSE adheres to its fiduciary duty to you as its client, which includes a duty of loyalty in performing all municipal advisory activities for you. HSE’s duty of loyalty requires HSE to deal honestly and with the utmost good faith with you and to act in your best interests without regard to HSE’s financial or other interests. In addition, because HSE is a broker-dealer with significant capital due to the nature of its overall business, HSE’s success and profitability does not depend on maximizing short-term revenue generated from individualized recommendations to HSE’s clients but instead depends on long-term profitability built on HSE’s foundation of integrity[, and] quality of service [and strict adherence to its fiduciary duty]. HSE’s municipal advisory supervisory structure, processes and practices provide strong safeguards against individual representatives’ departing from their regulatory duties due to personal interests. The conflicts disclosed below describe additional mitigations.

Compensation-Based Conflicts

HSE receives transaction-based compensation contingent on the size or closing of the transaction as to which HSE is providing advice. Transaction-based compensation creates incentives for HSE to recommend a transaction that it otherwise would not recommend or to recommend that the size of a transaction be greater than HSE otherwise would recommend. To mitigate this conflict, HSE has implemented policies and procedures designed to ensure that recommendations be suitable for clients and that HSE not receive excessive compensation.

Other Activities of HSE

HSE serves a wide variety of other clients that may from time to time have interests that could have a direct or indirect impact on your interests. For example, HSE serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such clients just as it does to you. These other clients may, from time to time and depending on the specific circumstances, have competing interests, such as accessing the new issue market with the most advantageous timing and with limited competition at the time of the offering. In acting in the interests of its various clients, HSE will sometimes face a conflict of interest arising from these competing client interests. In other cases, as a broker-dealer that engages in underwritings of new issuances of municipal securities by other municipal entities, the interest of HSE in achieving a successful and profitable underwriting for its municipal entity underwriting

clients will constitute a conflict of interest if, as in the example above, the municipal entities that HSE serves as underwriter or municipal advisor have competing interests in seeking to access the new issue market with the most advantageous timing and with limited competition at the time of the offering. None of these other engagements or relationships would impair HSE's ability to fulfill its regulatory duties to you.

At any given time a particular municipal advisor representative of HSE may be involved in numerous different transactions in different capacities. Accordingly, these municipal advisor representatives have a conflict of interest in allocating their time and activity between clients. To mitigate this conflict, HSE has implemented policies and procedures under which supervisors must consider the relevant municipal advisor representative's ability to devote sufficient time and attention to a transaction contemplated by a proposed municipal advisory agreement, in light of the representative's other pending transactions, in determining whether to approve the agreement.

Broker-Dealer Business

HSE is a broker-dealer that engages in a broad range of securities-related activities to service its customers and clients, in addition to serving as a municipal advisor or underwriter. These securities-related activities, which may include, among other things, the buying and selling of new issue and outstanding securities, including securities of yours, may be undertaken on behalf of, or as counterparty to, you, your personnel and current or potential investors in your securities. Those other customers or clients may have interests in conflict with your interests, such as when customers' buying or selling of your securities may have an adverse effect on the market for your securities, and the interests of those customers could create the incentive for HSE to make recommendations to you that could result in more advantageous pricing for the customers. Furthermore, any conflict arising from HSE's effecting or otherwise assisting customers is mitigated by means of such activities being engaged in on customary terms through personnel of HSE that operate independently from HSE's municipal advisory personnel, thereby reducing the likelihood that the interests of those customers would have an impact on the services provided by HSE to you in connection with this engagement.

Secondary Market Transactions in Your Securities

HSE, in connection with its sales and trading activities, may take a principal position in securities, including your securities, and therefore HSE could have interests in conflict with your interests with respect to the value of your securities while held in inventory and the levels of mark-up or mark-down that may be available in connection with purchases and sales of these securities. In particular, HSE or its affiliates may submit orders for and acquire your securities issued in the issue on which HSE is providing advice from members of the underwriting syndicate, either for its own account or for the accounts of its customers. This activity would result in a conflict of interest with you in that it would create the incentive for HSE to make recommendations to you that could result in more advantageous pricing of your bond in the marketplace that is more advantageous for purchasers, and therefore less advantageous for you. Any such conflict is mitigated by means of such activities being engaged in on customary terms through personnel of HSE that operate independently from HSE's municipal advisory personnel, thereby reducing the likelihood that these investment activities would have an impact on the services provided by HSE to you.

Legal and Disciplinary Events

Forms MA and MA-I require the disclosure of information about any criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation regarding a municipal advisory firm and its associated persons who engage in municipal advisory activities. HSE last made a material change to the legal and/or disciplinary event disclosures on its

Form MA on June 25, 2015 to disclose an order issued by the U.S. Securities and Exchange Commission (the "SEC") against HSE in connection with its Municipalities Continuing Disclosure Cooperation Initiative, described in more detail below under "Municipalities Continuing Disclosure Cooperating Initiative."

HSE's most recent Form MA and each Form MA-I are available at HSE's website, www.hsemuni.com, at the lower-right portion of the home page, near the other legal notices. The SEC permits certain items of information required of HSE on Form MA or MA-I to be provided by reference to such required information already filed by HSE in its capacity as a broker-dealer on Form BD or Form U4. Information provided by HSE on Form BD or Form U4, including disclosure of legal and disciplinary events, is publicly accessible through reports generated by BrokerCheck at <http://brokercheck.finra.org>. For purposes of accessing these BrokerCheck reports, HSE's CRD number is 2261.

Municipalities Continuing Disclosure Cooperating Initiative

On June 18, 2015, the U.S. Securities and Exchange Commission (the "SEC") issued an order against HSE instituting administrative and cease-and-desist proceedings pursuant to Section 8A of the Securities Act of 1933 (the "Securities Act") and Section 15(b) of the Securities Exchange Act of 1934 (the "Exchange Act"). This order was issued pursuant to a settlement between HSE and the SEC and was part of the SEC's Municipalities Continuing Disclosure Cooperation Initiative, a voluntary initiative in which the SEC encouraged municipal issuers and underwriters to self-report violations involving materially inaccurate statements relating to prior compliance with the continuing disclosure obligations specified in Rule 15c2-12 under the Exchange Act.

The SEC's order contains findings that HSE willfully violated Section 17(a)(2) of the Securities Act by failing to form a reasonable basis through adequate due diligence in certain municipal securities offerings for believing the truthfulness of certain assertions by issuers or obligors for issues of municipal securities regarding their compliance with previous continuing disclosure undertakings pursuant to Rule 15c2-12.

Without admitting or denying the findings in the SEC's order, except as to the SEC's jurisdiction over it and the subject matter of the order, HSE consented to the entry of the order, which requires that it cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act. The order also required that HSE comply with certain undertakings, including that it hire an independent consultant to review its policies and procedures relating to municipal securities underwriting due diligence, and to pay a civil penalty of \$220,000. HSE has complied with the undertakings and paid the penalty.

Section 17(a)(2) is an antifraud provision, but negligence is sufficient to establish a violation of this provision.

AGENDA ITEM #3.a.

State of Texas

§

§

County of Galveston

§

**First Amendment to Agreement by and between
Galveston County and Apollo Environmental Strategies, Inc.**

[Galveston County Contract No. CM16238]

I. Preamble

Whereas, the County of Galveston, Texas (County) and Apollo Environmental Strategies, Inc. (Contractor) have entered into that certain agreement for the construction of a dune restoration and beach nourishment project on Bolivar Peninsula effective October 11, 2016 (the "Agreement");

Whereas, said dune restoration and beach nourishment project is funded through the Coastal Impact Assistance Program, from a grant from the U.S. Department of Interior - U.S. Fish and Wildlife Service to Galveston County, Texas, No. F13AF00087;

Whereas, the Agreement included prevailing wage rate information under the Davis Bacon Act that was not the applicable prevailing wage rate information; and

Whereas, in accordance with Chapter 2258 of the Texas Government Code, a worker employed on a public work by or on behalf of Galveston County shall be paid a wage meeting or exceeding the prevailing wage rate;

Whereas, in accordance with Section 7(f) of Executive Order 13658, such Executive Order 13658 shall not apply to grants;

Whereas, in accordance with Section 2 of Executive Order 13658, such Executive Order 13658 applies to Federal contractors and subcontractors;

Whereas, in accordance with 29 C.F.R. § 10.4(a), the requirements of 29 C.F.R. Part 10 do not apply to grants;

Whereas, the Parties wish to amend the Agreement to utilize the applicable Davis Bacon Act prevailing wage rate information and thus wish to enter into this First Amendment to the Agreement.

Now Therefore, for and in consideration of the covenants and agreements contained herein, the Parties agree as follows:

II. Terms

1. **Recitals true.** The Parties hereto acknowledge and agree that the Recitals set forth in the Preamble above are true and correct.

2. **Amended Terms.** The Parties agree to amend the Agreement as follows;

The Davis Bacon prevailing wage information that was in the original Agreement is hereby REMOVED and REPLACED with the Davis Bacon prevailing wage rate information contained in the General Decision No. TX160094 08/26/2016 that is attached hereto as **Exhibit A** and which is incorporated herein for all purposes; said **Exhibit A** is affixed to this First Amendment after the execution page of this First Amendment.

3. **Effective Date.** This First Amendment shall be effective as of the date of the last Party executing hereto.

4. **Amending of Agreement.** By signing this First Amendment, the Parties expressly understand and agree that its terms shall become a part of the Agreement as if they were set forth word for word therein and all provisions in the Agreement that are contrary to the provisions in this First Amendment are deemed amended so as to be in compliance with the terms of this First Amendment. This First Amendment shall be binding upon the Parties hereto and their respective successors and assigns.

5. **Authority to Bind.** Each Party represents and warrants for itself that the individual executing this First Amendment on its behalf has the full power and authority to do so and to legally bind the Party to all the terms and provisions of this First Amendment and that this First Amendment constitutes the legal, valid, and binding agreement of each Party hereto.

This First Amendment to the Agreement is hereby **EXECUTED** by the Parties hereto, each respective Party acting by and through its duly authorized official as required by law, in *duplicate counterparts*, each of which shall be deemed to be an original, to be effective on the date specified herein.

Apollo Environmental Strategies, Inc.,

By:

Date Signed:

Sandra G. Elms, President

Galveston County,

By:

Date Signed:

Mark Henry, County Judge

Attest:

Dwight D. Sullivan,
Galveston County Clerk

EXHIBIT A

General Decision Number: TX160094 08/26/2016 TX94

Superseded General Decision Number: TX20150094

State: Texas

Construction Type: Heavy

County: Galveston County in Texas.

HEAVY CONSTRUCTION PROJECTS Including Water and Sewer Lines
(Does Not Include Flood Control)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.15 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/08/2016
1	03/18/2016
2	08/26/2016

* SFTX0669-001 04/01/2016

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 28.18	17.52

SUTX2005-021 08/05/2005		

HEAVY Including Water and Sewer Lines (Excluding Flood Control)

	Rates	Fringes
Carpenter.....	\$ 14.38	
Cement mason/concrete finisher.....	\$ 11.37	1.13
Electrician.....	\$ 18.40	1.34
FORM BUILDER/FORM SETTER.....	\$ 13.35	1.17
IRONWORKER, REINFORCING.....	\$ 11.29	

Laborers:

Common.....	\$ 10.70	
Landscape.....	\$ 7.35	
Mason Tender Cement.....	\$ 9.96	
Pipelayer.....	\$ 10.07	
PIPEFITTER.....	\$ 17.00	0.04
Power equipment operators:		
Excavator.....	\$ 16.74	
Backhoe.....	\$ 13.25	
Bulldozer.....	\$ 14.00	
Crane.....	\$ 14.91	0.58
Front End Loader.....	\$ 11.75	0.92
Grader.....	\$ 12.20	1.48
Tractor.....	\$ 12.38	1.51
TRUCK DRIVER.....	\$ 12.28	0.98

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1,

2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

AGENDA ITEM #4.a.

State of Texas
County of Galveston

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§

**ORDER PROHIBITING OUTDOOR BURNING IN ALL
UNINCORPORATED AREAS OF GALVESTON COUNTY, TEXAS
(OUTDOOR BURN BAN)**

On this, the **2nd day of November, 2016**, the Commissioners Court of Galveston County, Texas convened in a **Special Meeting** with the following members present:

Mark Henry, County Judge;
Ryan Dennard, Commissioner, Precinct No. 1;
Joe Giusti, Commissioner, Precinct No. 2;
Stephen D. Holmes, Commissioner, Precinct No. 3;
Kenneth Clark, Commissioner, Precinct No. 4; and
Dwight D. Sullivan, County Clerk

when the following proceedings, among others, were had, to-wit:

Whereas, pursuant to Section 352.081 of the Local Government Code, the Commissioners Court by order may prohibit or restrict outdoor burning in all or part of the unincorporated area of Galveston County, Texas;

Whereas, in accordance with Section 352.081(c)(1) of the Local Government Code, the Commissioners Court is authorized to prohibit or restrict outdoor burning if the Texas Forest Service has determined that drought conditions exist in Galveston County;

Whereas, the Texas Forest Service has determined that drought conditions exist in Galveston County as evidenced by the Keetch-Byram Drought Index (KBDI);

Whereas, in accordance with Section 352.081(d) of the Local Government Code, this Order may not extend beyond the 90th day after the date of its' adoption, provided however that the Commissioners Court may adopt a subsequent order that takes effect upon the expiration of this Order; and

Whereas, in accordance with Section 352.081(e)(1) of the Local Government Code, this Order may be lifted prior to ninety (90) days if a determination is made by the Texas Forest Service that drought conditions no longer exist in Galveston County.

Now, Therefore, it is hereby ORDERED, by the Commissioners Court of Galveston County, Texas, that:

- 1.) In accordance with the authority of Section 352.081 of the Local Government Code, outdoor burning in **all unincorporated areas** of Galveston County is hereby **PROHIBITED**;

- 2.) This Order shall take effect immediately on and from its issuance and remain in effect continuously thereafter for a period of ninety (90) days after this date of adoption, which such date of adoption is November 2, 2016, unless lifted earlier by subsequent order;
- 3.) In accordance with Section 352.081(f) of the Local Government Code, this Order shall not apply to outdoor burning activities:
 - a.) related to public health and safety that are authorized by the Texas Commission on Environmental Quality for: firefighter training; public utility, natural gas pipeline, or mining operations; or planting or harvesting of agricultural crops; or
 - b.) that are conducted by a certified and insured prescribed burn manager certified under Section 153.048, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code; or
 - c.) that are conducted by the members of a prescribed burning organization under the conditions provided by Section 153.049, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code;
- 4.) In accordance with Section 352.081(h) of the Local Government Code and Section 12.23 of the Penal Code, a person commits an offense if the person knowingly or intentionally violates this Order; an offense under this Order is a Class C misdemeanor, punishable by a fine not to exceed \$500.00; and
- 5.) The County Judge of Galveston County, Texas is authorized to execute this Order on behalf of the Commissioners Court of Galveston County, Texas.

Be it FURTHER ORDERED, that the County Clerk is **ORDERED** to transmit forthwith a copy of this Order to the Sheriff, Constables, and Criminal District Attorney of Galveston County for enforcement purposes.

Upon Motion Duly Made and Seconded, the above Order is hereby **ADOPTED**, on this, the **2nd** day of November, 2016.

COUNTY OF GALVESTON, TEXAS,

By:

Mark Henry,
County Judge

ATTEST:

Dwight D. Sullivan,
County Clerk